



***MINUTES OF THE ONE-HUNDRED-AND-SEVENTY-SEVENTH  
MEETING OF THE MERIT BOARD – August 18, 2010***

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***State Universities Civil Service System Office  
1717 Philo Road, Suite 24  
Urbana, Illinois 61802  
&  
(Video Conference)  
University of Illinois at Chicago  
Human Resources Building, Room 201D, 2<sup>nd</sup> Floor  
715 South Wood Street  
Chicago, Illinois  
&  
(Video Conference)  
Western Illinois University  
Horrabin Hall, Room 60  
1 University Circle  
Macomb, Illinois  
&  
(Video Conference)  
Southern Illinois University Edwardsville  
Office of Educational Outreach  
Founders Hall 2300, Distance Learning Classroom  
Edwardsville, IL***

Chair Maitland called the meeting to order at 10:08 a.m.

Members present at the primary meeting location were: Joanne E. Maitland, Chair, representing Illinois State University; and Barbara Vella, representing Northern Illinois University.

Members present at the Chicago videoconference location were: Grace G. Dawson, representing Northeastern Illinois University; Kristi DeLaurentiis, representing Governors State

University; Lawrence Oliver II, representing the University of Illinois; and Richard L. Tolliver, representing Chicago State University.

Member present at the Macomb videoconference location was: Donald “Bill” Griffin, representing Western Illinois University.

Member present at the Edwardsville videoconference location was: John Simmons, representing Southern Illinois University.

Member present by audio conference was: Karan Hasara, representing the University of Illinois.

Members absent were: James D. Montgomery, representing the University of Illinois; and Robert D. Webb, representing Eastern Illinois University.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Mary C. Follmer, Assistant Director, Legal Services; Teresa Rademacher, Secretary for the Merit Board; and Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

#### ***Consideration of participation by other Merit Board Members, not physically present at meeting site***

One board member had requested to participate by audio conference prior to the meeting due to family or other emergency. Ms. Vella moved to approve that Ms. Hasara be allowed to participate by audio in accordance with the Open Meeting Act requirements. Ms. DeLaurentiis seconded Ms. Vella’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

#### ***Public Comments***

The University System office had no requests for public comments.

#### ***Consideration of the Minutes of the 176<sup>th</sup> Meeting of the Merit Board, May 19, 2010;***

The minutes of the 176<sup>th</sup> meeting of the Merit Board, May 19, 2010 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Simmons moved to approve the minutes of the 176<sup>th</sup> meeting of the University Civil Service Merit Board. Ms. Vella seconded Mr. Simmons' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***Consideration of Discharge Proceeding Number UIUC-10-3 filed against Theresa R. Clark by the University of Illinois at Urbana-Champaign***

On August 5, 2010, the Secretary for the Merit Board mailed the Hearing Record for the Theresa R. Clark (UIUC-10-3) discharge case to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this discharge matter at this meeting.

Chair Maitland asked Ms. Follmer to give a summary of the case. Ms. Follmer summarized the Written Charges for Discharge and alternative orders. On March 4, 2010, Ms. Clark was served with Written Charges for Discharge. The charges alleged as grounds for discharge were the following: unauthorized breaks; repeated failure to follow directives; and flagrant violation of department rules.

Ms. Clark was a member of SEIU, Local 73. During the time of her employment at the University of Illinois at Urbana-Champaign, the governing collective bargaining agreement adopted the Performance Partnership Program (PPI) as the method of corrective action that is applied to dining service employees, including Ms. Clark. The PPI progressive discipline steps consist of the following:

- Work performance reminder – duration of 6 months provided no other formal corrective action occurs during this time period
- Written reminder – duration of 12 months provided no other formal corrective action occurs during this time period.
- Decision Making Leave – duration of 24 months provided no other formal corrective action occurs during this time period.

Ms. Clark received several corrective actions in accordance with the PPI. Based on the events as alleged in the Written Charges for Discharge and in consideration that Ms. Clark was in the last step of corrective action under the terms of the PPI, the university filed Written Charges for Discharge. The hearing officer found that the university had sustained its burden of proof regarding charges 1 and 3, but not charge 2.

Chair Maitland asked for a motion to either discharge or reinstate Ms. Clark. Mr. Simmons made a motion that Ms. Clark be discharged. Dr. Griffin seconded Mr. Simmons' motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Simmons .....Aye  
 Rev. Tolliver .....Aye  
 Ms. Vella .....Aye  
 Dr. Webb .....Absent  
 Dr. Dawson .....Absent  
 Ms. DeLaurentiis.....Aye  
 Dr. Griffin.....Aye  
 Ms. Hasara.....Aye  
 Mrs. Maitland .....Aye  
 Mr. Montgomery.....Absent  
 Mr. Oliver .....Aye

The following decision and order was therefore adopted.

## STATE OF ILLINOIS



## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

<b>THERESA R. CLARK,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee-Petitioner,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. UIUC-10-3</b>
<b>UNIVERSITY OF ILLINOIS at Urbana-Champaign,</b>	)	
	)	
<b>Employer-Respondent.</b>	)	

## DECISION AND ORDER OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD

### PROCEDURAL HISTORY

Discharge proceedings have been commenced by the **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, employer, against **THERESA R. CLARK**, employee, by service of Written Charges for Discharge by certified mail on March 4, 2010 and the Employee-Petitioner, **THERESA R. CLARK**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on May 24, 2010 in conformity with the procedures set forth in section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

### **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge filed on March 4, 2010
2. Suspension Notice Pending Discharge filed on March 4, 2010
3. Employee's timely written request for a Hearing received on March 18, 2010 from the Employee-Petitioner
4. Acknowledgement of request for Hearing, dated March 18, 2010
5. Proof of Continuance, dated March 23, 2010
6. Acknowledgment of Continuance, dated March 24, 2010
7. Notice of Hearing to Hearing Officer, dated March 25, 2010
8. Proof of Notice of Convening of Hearing to the Employer's Attorney of Record, Employer, Employee's Representative of Record, and Employee, dated March 25, 2010
9. Subpoena Request and Subpoena AD Testificandum for Jeffrey Reeder and Sylvia Carr, dated May 17, 2010
10. The Board of Trustees of the University of Illinois at Urbana Champaign's Written Closing Arguments, dated June 3, 2010
11. Transcript of Evidence and Exhibits
12. Request to Hearing Officer for Findings of Fact, dated June 8, 2010
13. Findings of Fact, rendered by the Hearing Officer, dated June 20, 2010
14. Certification of Hearing Record, dated June 29, 2010
15. Employee-Petitioner's Objections to the Hearing Officer's Findings of Fact, filed on July 13, 2010 by Tyson Roan, Representative for Employee-Petitioner
16. Receipt and Notice of Filing of Employee-Petitioner's Objections to the Hearing Officer's Findings of Fact, dated July 13, 2010

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, supports and sustains the following charges of the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, against the employee, **THERESA R. CLARK**, and establishes just cause for discharge, as follows:

The employee received the following corrective actions in accordance with the Performance Partnership Program:

- Work Performance Reminder (attendance and conduct) – 11/30/04
- Written Reminder (conduct) – 02/02/05
- Work Performance Reminder (conduct) – 03/02/05
- Written Reminder (conduct) – 05/01/09
- Decision Making Leave Suspension – 12/04/09

Subsequent to the decision making leave the employee committed the following infractions:

- Unauthorized breaks; and
- Flagrant violation of department rules.

#### **DECISION AND ORDER**

**WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, to the extent not inconsistent with the findings made herein.
2. The employee, **THERESA R. CLARK** is hereby separated from the service of her employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, and that the effective date of her discharge shall be as of August 18, 2010.

**DATED AND ENTERED** this 18<sup>th</sup> day of August, 2010.

**UNIVERSITY CIVIL SERVICE MERIT BOARD**

By: /s/ Joanne E. Maitland

Joanne Maitland  
Chair

ATTEST:

/s/ Teresa M. Rademacher

Teresa M. Rademacher  
Secretary for the Merit Board

***Update on the Michael Rettig v. the Universities Civil Service Board et. al., Case No. 09 MR 120***

Ms. Follmer explained that this case stems from an Executive Director Review Decision wherein it was determined that Officer Michael Rettig waived his right to a discharge hearing under the terms of a Last Chance Agreement. The Merit Board upheld the Executive Director's decision on August 19, 2009. On September 16, 2009 Officer Rettig filed a Summons in Administrative Review. On June 21, 2010, the Circuit Court of DeKalb County remanded the case back to the Merit Board to hold a Discharge Hearing on Officer Rettig's separation from Northern Illinois University. A copy of the court order was included in the agenda materials. The court was not comfortable in finding that Officer Rettig waived his right to a Merit Board hearing through the Last Chance Agreement provisions, without considering the conduct leading to the alleged

breach of the Last Chance Agreement. . Northern Illinois University has filed Written Charges for Discharge on Officer Rettig. The case will be on the November 17, 2010 agenda for the Merit Board. The Merit Board will decide the case based on the new hearing information, not on any previous information.

### ***Consideration of FY 2012 Budget Recommendation for the State Universities Civil Service System Office***

Mr. Morelock gave an overview of the proposed budget request for FY 2012. Mr. Morelock explained that the final FY 2011 appropriated budget was approved with only two line items – Lump Sum (\$1,273,200) and Lump Sum Other (\$3,000) for a total of \$1,276,200. For a small agency with a small budget, this allows the agency much more flexibility in managing their expenses and reacting to unforeseen financial situations. The FY 2012 proposed budget proposal remains the same as the final total FY 2011 appropriation. Funds have been moved from the Contractual Services Internal Line Item to Personal Services Internal Line Item to provide for the employment of two new staff personnel and to provide staff with a possible salary increase in FY 2012. As this time, no salary increases have been given to staff for FY 2011. A new lease was signed effective September 1, 2010 which will provide for a significant cost savings. The overall square footage and cost per square foot have both been reduced.

Mr. Simmons stated that he appreciated all the work Director Morelock, Mary Follmer, Teresa Rademacher, and Jeff Brownfield are doing to maintain these budgets with the appropriation remaining the same over the last several years.

Mr. Simmons made a motion that the Merit Board approve the recommended FY 2012 budget as presented in the agenda materials. Ms. DeLaurentiis seconded Mr. Simmons' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

### ***Update information on the Public Officials Errors and Omissions Insurance Policy***

Mr. Morelock explained that a new errors and omission insurance policy has been issued for one year with Beazley Insurance Company at a rate of \$9,235. The insurance company was demanding payment prior to July 16, 2010. Last year the insurance agent did not receive payment for the FY 2010 policy until December 2009. David Jonaitus, Northeastern Illinois University, worked with the University System Office to provide the timely payment to the Insurance Company through the State Universities Risk Management Association (SURMA). The University System office has processed the reimbursement to SURMA but it will be several months before SURMA actually receives the funds due to the State of Illinois payment processing delays. Executive Director Morelock publically recognized David Jonaitus and Karen Kissel for their assistance regarding this matter.



## ***Report of the Executive Director***

Executive Director Morelock provided an agency report which included the following items:

- Office Lease – new lease was executed in May 2010, effective September 1, 2010 through August 31, 2015; square footage has been reduced from 9,410 sq. ft. to 8,584 and the cost has been reduced from \$16.88 to \$15.38 sq. ft.; this will provide significant savings in the upcoming years;
- updated the Merit Board on the current FY 2010 / FY 2011 expenditures and obligations; breakdown of expenditures were included in the agenda materials;
- updated the Merit Board on the Audit Program with a copy of the audit schedule included in the agenda materials;
- updated the Merit Board on the recent classification/examination changes; and
- informed the Merit Board of interagency activities with a list of University/Agency visits included in agenda materials.

## ***Other Matters***

Mr. Morelock further stated that he had two additional items to discuss with the Merit Board that were not included in the agenda materials.

The first item was a report on the August 11, 2010 Joint Illinois Senate Committee Hearing. This Senate Committee was composed of members from the Higher Education and Appropriations II Committees. A Hearing was convened in Chicago to discuss “Civil Service employee classifications, exemptions and protocols at the University of Illinois at Chicago”. A packet of information as presented to the Committee had been sent to the Board members. Six senators participated in the committee hearing. The University of Illinois at Chicago elected to ‘not participate’ to a possible labor dispute. Executive Director Morelock gave an overview of the hearing.

Executive Director Morelock also stated that the committee has asked him to provide recommendations on updating regulatory components to more aggressively address compliance issues within the University System jurisdiction. Following is a list of actions that the Merit Board should consider in an attempt to address any future non-compliance issues

discovered through our standardized biennial audit process, and most specifically the exemption issue exemplified in the UIC audits:

- 1) Establishment of administrative rules regarding the biennial compliance audit process, outlining specific actions to be taken in instances of statutory non-compliance***
- 2) Transition of exemption procedures into specific administrative rules regarding the exemption process***
- 3) Until such time that 1 and 2 above can be implemented, immediate Merit Board action to modify current procedural standards to specifically limit exemption authorization by our various employers and/or increase accountability standards and corresponding consequences to aggressively address issues related to this topic***
- 4) For the sake of complete transparency, publicize all final audit reports at our public website address as soon as they are released; the University System Office has been questioned about this many times and has been required to devote additional resources to produce these reports under the FOIA***
- 5) Offer our consultation with respect to the development of any statutory legislative action in this regard***

Executive Director further stated that the exemption procedures that were passed last year by the Merit Board needed to be codified in the Administrative Rules for the University System. The legal authority of these exemption procedures are formally established when they are codified as rules.

Discussion, recommendations, and further action will be taken at the November 17, 2010 Board meeting.

The second item was notification to the Board that the President of the University of Illinois is declaring an emergency in response to a possible employment action(strike) of the clerical, service, and technical group at the University of Illinois at Chicago. Ms. Follmer explained that that 80 Ill. Adm. Code §250.160(a) allows the university to bypass some of the employee appointment rules to function in these emergency situations, especially since this is in a hospital/medical personnel setting. Such action only requires the employer to give notice. There is no approval requested at this point. The University is required to provide a detailed report within 10 days of the end of the emergency.

#### ***Report of the Human Resource Directors Advisory Committee***

The Merit Board heard a report from Maureen Parks, Assistant Vice President for University Human Resources, University of Illinois. Ms. Parks stated that the committee had met once

since the last meeting of the Merit Board and also one Pilot Program sub-committee meeting had also been held at the University System office.

The Pilot Program was introduced many years ago in Executive Director Morelock's early tenure as the Executive Director of the State Universities Civil Service System. The Pilot Program Committee is continuing to work out the issues involved with this program being eliminated and transitioned to the standardized classification plan of the University System. This sub-committee will meet again on August 26, 2010.

Ms. Parks further stated that at the Joint Senate Committee Hearing on August 11, 2010, the University System office was asked some very pointed questions. President Hogan and Chancellor Allen-Meares are working on resolving the audit issues at the University of Illinois at Chicago. President Hogan has moved all of the responsibility of the audit at the University of Illinois at Chicago to Ms. Parks. She further stated that a lot of the information required and business process activities are not maintained in the campus HR department, but in the many other departments and units of the university. This has lead to many problems.

Ms. Parks reported that on behalf of all of the Human Resource Directors that they would like to continue to be involved in the process of all proposed changes regarding the exemption procedures and protocols.

#### ***Report of the State Universities Civil Service Advisory Committee – Barney Bryson, Chair***

The Merit Board heard a report from Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. Mr. Bryson stated that it was refreshing news that HR and the University System office are coming together to get the Principal Administrative Appointments issues resolved. Two chairs ago, the Employee Advisory Committee had written a letter highlighting these same issues. He further stated that two or three other universities have greater number problems, regarding exemptions, than the University of Illinois at Chicago.

Mr. Bryson stated that the mission of the Employee Advisory Committee is to advise the Merit Board on issues. All committee members in attendance at the board meeting were introduced. The committee currently has several vacancies – Western Illinois University and the University of Illinois at Springfield are vacant due to members retiring and Chicago State University is vacant due to the member being laid off.

#### ***Report of Legal Counsel – Mary Follmer***

Mary Follmer, Assistant Director, Legal Services, updated the Merit Board on outstanding legal matters. Ms. Follmer stated that during FY 2011 70 Written Charges for Discharge were served

on employees by the various universities/agencies. Four cases could possibly be on the agenda for the November 2010 meeting.

### ***Other Items as Presented***

The next meeting of the Merit Board will be on Wednesday, November 17, 2010. Dr. Dawson made a motion to adjourn the meeting. Ms. DeLaurentiis seconded Dr. Dawson's motion. A voice vote was taken and approved. The meeting adjourned at 11:15 a.m.

Respectfully submitted,

*/s/ Teresa M. Rademacher*

Teresa M. Rademacher  
Secretary for the Merit Board

APPROVED:

*/s/ Joanne E. Maitland*

Joanne E. Maitland, Chair

November 17, 2010

Date